

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND  
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.  
*See* Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24

FILED BY CLERK

MAY 13 2010

COURT OF APPEALS  
DIVISION TWO

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION TWO

THE STATE OF ARIZONA,	)	2 CA-CR 2010-0034-PR
	)	DEPARTMENT A
Respondent,	)	
	)	<u>MEMORANDUM DECISION</u>
v.	)	Not for Publication
	)	Rule 111, Rules of
KEVIN EUGENE CRAIG,	)	the Supreme Court
	)	
Petitioner.	)	
_____	)	

PETITION FOR REVIEW FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. CR-60232

Honorable Jan E. Kearney, Judge

REVIEW GRANTED; RELIEF DENIED

Kevin Eugene Craig

San Luis  
In Propria Persona

H O W A R D, Chief Judge.

¶1 Following a jury trial, petitioner Kevin Craig was convicted of first-degree felony murder and kidnapping. The crimes took place in January 1998. Craig was originally sentenced to life imprisonment for the murder conviction and to a concurrent, aggravated, ten-year term for the kidnapping conviction. In September 2004, however, he was resentenced for the murder conviction to life imprisonment without possibility of

release for at least twenty-five years. He did not file a subsequent appeal from his resentencing.

¶2 In September 2009, Craig filed a petition for post-conviction relief pursuant to Rule 32, Ariz. R. Crim. P. The trial court summarily dismissed the petition in a well-reasoned ruling denying relief on all of Craig’s claims. We will not disturb a trial court’s ruling on a petition for post-conviction relief absent an abuse of its discretion. *State v. Watton*, 164 Ariz. 323, 325, 793 P.2d 80, 82 (1990). We find no such abuse here.

¶3 In his petition for review, Craig argues, as he did below, that he had been resentenced unlawfully,<sup>1</sup> that a significant change in the law entitled him to a new sentencing, and that he had received ineffective assistance of counsel during resentencing. Because the trial court’s order clearly identifies the issues Craig raised and correctly resolved them so that any court in the future can understand its ruling, and because the court’s findings and conclusions are supported by the record before us, we see no purpose in rehashing the order here. *See State v. Whipple*, 177 Ariz. 272, 274, 866

---

<sup>1</sup>In his petition for post-conviction relief, Craig claimed that his sentence was unlawful because the trial court was only permitted to sentence him to natural life in prison or to a twenty-five-year, flat-time sentence, not to life imprisonment with the possibility of release after twenty-five years. The trial court disagreed, however, ruling that Craig was properly sentenced in accordance with the appropriate sentencing statute as interpreted by *State v. Viramontes*, 204 Ariz. 360, 64 P.3d 188 (2003). In his petition for review, Craig claims *Viramontes* was unconstitutional. But he relied on *Viramontes* below and did not make this claim. We will not address issues raised for the first time in a petition for review. *See* Ariz. R. Crim. P. 32.9(c)(1)(ii) (petitioner may challenge on review issues decided by trial court); *see also State v. Ramirez*, 126 Ariz. 464, 468, 616 P.2d 924, 928 (App. 1980) (appellate court does not consider issues first presented in petition for review that “have obviously never been presented to the trial court for its consideration”).

P.2d 1358, 1360 (App. 1993). Instead, we adopt it. *See id.* Accordingly, although we grant Craig’s petition for review, we deny relief.

/s/ Joseph W. Howard

JOSEPH W. HOWARD, Chief Judge

CONCURRING:

/s/ Philip G. Espinosa

PHILIP G. ESPINOSA, Presiding Judge

/s/ Virginia C. Kelly

VIRGINIA C. KELLY, Judge